

151 FERC ¶ 61,080
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Tapstone Midstream, LLC

Docket Nos. OR15-7-002
OR15-9-000
IS15-111-000

ORDER ACCEPTING COMPLIANCE FILING AND DENYING REQUEST FOR
WAIVER

(Issued April 30, 2015)

1. On February 18, 2015, Tapstone Midstream, LLC (Tapstone) submitted a compliance filing containing cost-of-service data supporting its initial rates, as directed by the Commission in the order issued January 15, 2015, in this proceeding.¹ Additionally, Tapstone requested a waiver of section 342.3(d) of the Commission's regulations.² As discussed below, the Commission accepts the compliance filing and denies the requested waiver.

Background

2. On December 16, 2014, in Docket No. IS15-111-000, Tapstone filed its FERC Tariff No. 1.0.0³ establishing initial rates for service on facilities that it acquired on December 31, 2014. Contemporaneously, in Docket No. OR15-7-000, Tapstone filed a request for waiver of the Commission's cost, revenue, and throughput data requirements. On December 24, 2014, in Docket No. OR15-9-000, Tapstone filed a request for a temporary waiver of the filing and reporting requirements, which would have allowed Tapstone to withdraw its FERC Tariff No. 1.0.0.

¹ *Tapstone Midstream, LLC*, 150 FERC ¶ 61,016 (2015) (January 15, 2015 Order).

² 18 C.F.R. § 342.3(d) (2014).

³ Tapstone Midstream, LLC, FERC Oil Tariff, Tapstone Midstream, LLC Tariff, [Tapstone Tariff, FERC ICA Oil Tariff, 1.0.0](#).

3. In the January 15, 2015 Order, the Commission accepted and suspended FERC Tariff No. 1.0.0, to be effective December 31, 2014, subject to refund and conditions. In that order, the Commission denied the request for waiver of the cost, revenue, and data requirements and directed Tapstone to file the cost, revenue, and throughput data applicable to the facilities, as required by section 342.2(a) of the Commission's regulations.⁴ The Commission also denied Tapstone's separate tariff waiver request.

4. On February 18, 2015, Tapstone submitted a compliance filing containing a cost-of-service for its initial rates. In that filing, Tapstone stated that its cost-of-service calculations support an initial tariff rate of \$4.31/barrel. However, Tapstone stated that it currently is charging a lesser rate of \$0.55/barrel, but it added the following:

[i]n order to maintain Tapstone's ability to utilize the Commission's pipeline rate indexing methodology to recover its cost-of-service going forward, Tapstone respectfully requests waiver of Section 342.3(d) of the Commission's regulations to establish the rate ceiling level for the current index year at \$4.31/barrel, as supported by the attached cost-of-service calculation.

Discussion

5. Section 342.3(d)(1) of the Commission's regulations requires a carrier to "compute the ceiling level for each index year by multiplying the previous index year's ceiling level by the most recent index published by the Commission."⁵ Further, section 342.3(d)(5) provides in part that "[w]hen an initial rate, or rate changed by a method other than indexing, takes place during the index year, such rate will constitute the applicable ceiling level for that index year."⁶

6. Commission regulations provide an avenue to change rates after initial rates are established by a cost-of-service filing. Specifically, section 342.4(a) provides in part as follows:

⁴ 18 C.F.R. § 342.2(a) (2014).

⁵ 18 C.F.R. § 342.3(d)(1) (2014).

⁶ 18 C.F.R. § 342.3(d)(5) (2014).

[a] carrier may change a rate pursuant to this section [cost-of-service rates] if it shows that there is a substantial divergence between the actual costs experienced by the carrier and the rate resulting from application of the index such that the rate at the ceiling level would preclude the carrier from being able to charge a just and reasonable rate within the meaning of the Interstate Commerce Act.⁷

7. Tapstone has chosen an initial tariff rate of \$0.55/barrel, although its cost-of-service filing purports to support a higher initial tariff rate of \$4.31/barrel. Tapstone states that it has limited operational experience with the facilities it acquired on December 31, 2014, and it maintains that charging a rate lower than its cost-of-service data support will benefit potential shippers and upstream interest owners as Tapstone begins its operations and establishes an operational history.

8. The Commission finds that Tapstone's initial tariff rate of \$0.55/barrel constitutes the applicable ceiling level for index purposes. As Tapstone gains operational history with the facilities, it will be able to assess whether its rate on file covers its costs. If Tapstone determines that it is unable to recover its costs using the \$0.55/barrel tariff rate, it may file to change the rate pursuant to section 342.4(a) of the regulations by showing a substantial divergence between the actual costs it has experienced and the current rate.

The Commission orders:

As discussed above, the Commission accepts Tapstone's compliance filing, but denies its request for waiver of section 342.3(d) of the Commission's regulations.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁷ 18 C.F.R. § 342.4(a) (2014).